

MORTGAGE LOAN COMPANY AND LOAN BROKER RULES

Effective Date April 1, 2002

**Arkansas Securities Department
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MORTGAGE LOAN COMPANY AND LOAN BROKER RULES

RULE 1. GENERAL PROVISIONS.

101 DEFINITIONS

Unless the context clearly indicates otherwise, the following definitions shall apply whenever the following terms are used in these Rules, the Mortgage Loan Company and Loan Broker Act, and all forms and orders of the Arkansas Securities Commissioner regarding mortgage loan companies and loan brokers:

- (1) **ACT.** The Mortgage Loan Company and Loan Broker Act as set forth in Ark. Code Ann. §23-39-101 through 23-39-405.

RULE 2. RECORDS AND REPORTS

201 REQUIRED RECORDS

- (A) In addition to any statutory requirement regarding records, each registrant shall maintain books, records and documents sufficient to allow the Commissioner to determine the registrant's compliance with the Act. The registrant shall maintain all such records for at least the period of time specified in Ark. Code Ann. § 23-39-204, and shall make them available to the Commissioner or his designee within 72 hours notice to the registrant. Such records may be maintained in the form of magnetic tape, magnetic disk or other form of computer, electronic or microfilm media provided that the means to examine such records in a fashion acceptable to the Commissioner is available at the office of the registrant. However, books and records kept in such a manner shall be convertible into clearly legible, tangible documents within 72 hours of request by the Commissioner. This time period may be extended for an additional time at the discretion of the Commissioner. Such books, records and documents shall include, at a minimum, the following:
 - (1) A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. The applicant's name;
 - b. The date of the application;
 - c. The amount of the initial loan request;
 - d. The final disposition of the application (whether funded, denied, etc.) and the date of such disposition; and
 - e. The name of the loan officer or employee processing the application;

- (2) A record, such as a cash receipts journal, of all money received in connection with a mortgage loan showing at least:
 - a. The payor's name;
 - b. The date received;
 - c. The amount; and
 - d. The purpose of the receipt including identification of any related loan;
- (3) A general ledger which shows a description and the balance of each of the mortgage loan company's asset accounts, liability accounts, equity accounts, income accounts, and expense accounts;
- (4) A general journal in which all entries to the general ledger, other than those posted in the cash disbursement journal and cash receipts journal, are posted;
- (5) A sequential listing of checks written for each bank account, such as a cash disbursement journal, relating to the registrant's business as a mortgage loan company or loan broker showing at least:
 - a. The Payee's name;
 - b. The amount;
 - c. The date; and
 - d. The purpose of the payment including identification of any related loan;
- (6) Bank activity source documents for the registrant's business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices;
- (7) An escrow and/or trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. The borrower's name or co-borrowers' names;
 - b. The loan number, if any;
 - c. The Amount received;
 - d. The purpose for the amount received;
 - e. The date received;
 - f. The date deposited into the trust account;
 - g. The amount disbursed;
 - h. The date of disbursement;
 - i. The payee of such disbursement;
 - j. The purpose of such disbursement; and
 - k. The balance;

- (8) A file for each application for a mortgage loan containing:
 - a. The agreement with the customer concerning the broker's services, whether as a loan application or fee agreement, including commitment and lock-in agreements where applicable;
 - b. A document showing the final disposition of the application, such as a settlement statement or a denial or withdrawal letter;
 - c. All correspondence sent or received by the registrant;
 - d. All contracts, agreements, and escrow instructions to or with any depository;
 - e. Documents showing compliance with the Consumer Credit Protection Act disclosure requirements (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act disclosure requirements (12 U.S.C. §§ 2601 through 2617), to the extent applicable;
 - f. If the loan is closed in the mortgage loan company or loan broker's name, a copy of all closing documents including the closing instructions, any applicable rescission notice, HUD-1 settlement statement, final truth-in-lending disclosure, executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the registrant; and
 - g. An itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
- (9) A copy of all advertising relating to the registrant's business in Arkansas;
- (10) A copy of all governmental or regulatory reviews;
- (11) If the registrant is not a natural person, a file containing:
 - a. A copy of the organizational documents for the registrant with any amendments thereto;
 - b. All minutes of meetings of directors', shareholders', partners', or similar parties';
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the registrant, ascertainable as of any given record date; and
 - d. All Franchise Tax Reports or Annual Reports required by law to be filed;
- (12) If the registrant or any person owning or controlling directly or indirectly 20% or more of the registrant has a felony conviction, a copy of the judgment or other record of conviction;

- (13) If the registrant or any person owning or controlling directly or indirectly 20% or more of the registrant has, in the previous 7 years, been named as a defendant in any civil suit, a copy of the complaint, any answer filed by the registrant or person, and any judgment, dismissal, or other final order disposing of the action;
 - (14) A copy of each broker agreement or independent contractor agreement that has been entered into with an investor or organization that funds the loans;
 - (15) A file containing copies of all complaint letters or correspondence received; and
 - (16) A balance sheet and income statement prepared in accordance with generally accepted accounting procedures.
- (B) All of the books and records set forth in subparagraph (A) above shall be kept current on at least a monthly basis, except those set forth in subparagraph (A)(16), which shall be prepared and kept current on at least a quarterly basis.
- (C) All of the books and records required under subparagraph (A) shall be kept in either the registrant's home office or in its principal place of business located in Arkansas unless the Commissioner approves, in writing, a different location. Each registrant shall notify the Commissioner at the time of application for registration or renewal of registration of the location of its books and records. In addition, a copy of the records set forth in subparagraph (A)(8) shall be maintained in the branch office where the loan was originated if different than the office in which all of the records are kept.